

REMARKS

Prior to entry of this response, Claims 1-47 were pending in the application. By this response, no claims are added and no claims are canceled. Hence, Claims 1-47 are pending in the application upon entry of this response.

Claims 1-3 and 6 are amended herein.

SUMMARY OF THE REJECTIONS/OBJECTIONS

Claims 1, 2, 4, 7-12, 20, and 40-47 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by Alleshouse (“*Alleshouse*”; U.S. Pat. No. 6,655,593);

Claims 3, 5, and 6, were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Alleshouse*;

Claims 13-21 and 23-39 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Alleshouse* in view of Connelley (“*Connelley*”; U.S. Pat. Pub. No. 20040225647, filed May 2003); and

Claim 22 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Alleshouse* in view of *Connelley* and further in view of Slaughter et al. (“*Slaughter*”; U.S. Pat. No. 6,643,650).

THE REJECTIONS BASED ON THE PRIOR ART

Rejection under 35 U.S.C. §102(e)

Claims 1, 2, 4, 7-12, 20, and 40-47 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by Alleshouse (“*Alleshouse*”; U.S. Pat. No. 6,655,593). This rejection is traversed on the basis that a *prima facie* case of anticipation was not established with respect to these claims.

In support of the rejection of Claim 1, the Office Action asserts the following about the disclosure of *Alleshouse*:

The XML processor initially parses and processes the XML input data stream and generates a set of nodes to perform their required function to process the underlying data contained in the XML data stream (col. 5, lines 35-39). The XML data contains XML value data and the XML element name (col. 4, lines 28-30). The examiner interprets the disclosed element names as equivalent to the claimed annotations because the element names provide information about the value data and are associated with specific data elements.

First, in a name-value pair, such as the XML element name-XML value data pair, the “name” associated with the “value” says nothing about **how to process** the XML element corresponding to the name-value pair, as in the embodiment recited in Claim 1. For example, in the XML element-value pair <name> Albert Einstein </name>, the presence of the <name> tags do not indicate how to process this name-value pair or how to process the value of the name-value pair. The <name> tags merely provide a name, i.e., a descriptor or identifier, for the corresponding value. For another example, in the XML element-value pair <address> 1234 Relative Way </address>, the presence of the <address> tags do not indicate how to process this name-value pair or how to process the value of the name-value pair. Rather, the <address> tags merely provide a name, i.e., a descriptor or identifier, for the corresponding value. Thus, **the interpretation that the XML element names are equivalent to the claimed annotations is improper**, at least in part **because XML element names do not describe, define, specify, reference or, generally, direct processing to perform on an associated node of an XML input stream**, as “annotations” (e.g., schema annotations) are known to do in the area of XML and as described in the specification (*see*, e.g., para. [0025]) and similarly to how defined in Claim 1. For this reason alone, the anticipation rejection of Claim 1 based on *Alleshouse* is improper and unsupported by the cited reference.

Next, the notion of an XML processor parsing an XML input stream and generating a set of nodes (e.g., a DOM, or document object model) is not new and, more significantly, is not what is recited in Claim 1. Parsing an XML input stream and generating a node tree does not include, explicitly or inherently, indicating how to process nodes within the tree. Furthermore, the fact that *Alleshouse* discloses use of such a node tree “teaches away” from the embodiment of Claim 1 because a resource-intensive in-memory DOM is not required for validating XML elements in implementations of this embodiment.

Next, the Office Action does not point out where *Alleshouse* teaches **generating one or more messages** that indicate how to process a particular XML element, as recited in Claim 1. Thus, even if the XML element names were to indicate how to process the corresponding XML element (which the Office Action seems to assert and which is not conceded to herein), there is no teaching or suggestion to generate messages containing such information that indicates how to process certain XML elements. Speculating, perhaps the Office Action takes the position that such messages are inherent to building the node tree, e.g., that there are OS-level or internal parser-based “messages” generated about the XML element names. However, such a position would be unsubstantiated and overreaching because parsing an XML input stream and building a node tree based thereon does not inherently teach generating one or more messages about how to process a corresponding XML element, and certainly does not teach or fairly suggest “responding to a request for information about said particular XML element by providing said one or more messages,” as recited in Claim 1. The limitation that the messages are externalized or exposed by providing them in response to a request for information about a particular XML element eliminates any interpretation that internal OS-type or parser-type messages are equivalent to the messages recited in Claim 1.

Next, the one or more **messages generated** in the embodiment recited in Claim 1 to indicate **how to process a particular XML element** are generated **while validating the particular XML element** in the XML-based input stream. By generating and exposing a **message about post-validation processing of a particular XML element while validating the same XML element** provides for applications to process a given streamed node according to an associated annotation definition virtually concurrently with validation of the given node by the validator, while preserving a streaming processing model. Respectfully, *Alleshouse* clearly does not teach or fairly suggest such subject matter as recited in Claim 1.

For at least the foregoing reasons, it is shown that *Alleshouse* does not support a valid *prima facie* case of anticipation of Claim 1. Therefore, Claim 1 is patentable over the *Alleshouse* reference. Dependent **Claims 2, 4, and 7-12** depend from Claim 1 and, therefore, are patentable over the cited reference of record for at least the same reasons as Claim 1. Furthermore, each of these dependent claims includes at least one other limitation that makes it further patentable over the reference of record. However, due to the fundamental difference between Claim 1 and *Alleshouse* discussed above, discussion of these additional differences is unnecessary and is foregone at this time. The rejection of the dependent claims is collectively traversed, and no statements of official notice, overarching allegations of anticipation, or allegations of well-known features that may be present in the Office Action are stipulated to or admitted as prior art features, and the right to separately argue such features in the future is not disclaimed.

The anticipation rejection of dependent **Claims 40-47** is confused because the independent claim from which these claims depend, Claim 39, is rejected as obvious. Respectfully, if an independent claim is rejected based on an assertion of obviousness, it is not

proper to reject, on the basis of anticipation, claims which depend from that independent claim. Hence, the rejection of Claims 40-47 under 35 U.S.C. §102(e) is improper as it stands.

Based on the foregoing, reconsideration and withdrawal of the rejection of Claims 1, 2, 4, 7-12, 20, and 40-47 under 35 U.S.C. §102(e) is respectfully requested.

In response to the Office Action's assertion, regarding Claim 40, that "annotations" are interpreted as "instructions for validation ... (as consistent with the specification section)", Applicants disagree. The specification does not describe annotations as instructions for validation, as the Office Action asserts. Generally, annotation definitions direct the type of processing to be performed on nodes at application runtime (*see*, e.g., para [0015]), for example, by an external application that requests the annotations. Such runtime processing of XML elements is different from validation processing of such elements.

Rejection under 35 U.S.C. §103(a)

Claims 3, 5, and 6 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Alleshouse*;

Claims 13-21 and 23-39 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Alleshouse* in view of *Connelley*; and

Claim 22 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Alleshouse* in view of *Connelley* and further in view of *Slaughter*.

Claims 3-6

As shown above, all the remaining claims stand rejected based on some combination of *Alleshouse* and at least one other reference. Each of **Claims 3-6** depends from Claim 1 and, therefore, is patentable over the cited references of record for at least the same reason as Claim 1. Stated otherwise, it is shown above why *Alleshouse* does not support a valid anticipation rejection of Claim 1 because *Alleshouse* is deficient in its teachings regarding the subject matter

of Claim 1. Thus, it follows that no combination of *Alleshouse* and any other reference supports a valid obviousness rejection of Claims 3-6. Furthermore, each of these dependent claims includes at least one other limitation that makes it further patentable over the reference of record. However, due to the fundamental difference between Claim 1 and *Alleshouse* discussed above, discussion of these additional differences is unnecessary and is foregone at this time. The rejection of the dependent claims is collectively traversed, and no statements of official notice, overarching allegations of anticipation, or allegations of well-known features that may be present in the Office Action are stipulated to or admitted as prior art features, and the right to separately argue such features in the future is not disclaimed. Reconsideration and withdrawal of the rejection of Claims 3-6 under 35 U.S.C. §103(a) is requested.

Claims 13-39

The *Connelly* reference is not prior art to the subject application for the subject matter on which it is relied for the rejection of **Claims 13-39**. The Office Action generally relies on the value of the indicator variable “dataState” in *Connelly*, which is used to check on the progress of a feed, for an alleged teaching of “providing said information about said state of said validation operation,” as recited in Claim 13. The Office Action applies an effective filing date of “May 2003” to the *Connelly* reference, presumably based on a benefit of priority to U.S. Provisional Patent Application No. 60/469,496 which was filed on May 9, 2003. However, U.S. Provisional Patent Application No. 60/469,496 does not contain the subject matter relied upon for the rejection of these claims, namely, the subject matter regarding the “dataState” variable. Rather, a second provisional patent application to which the *Connelly* reference claims priority, i.e., U.S. Provisional Patent Application No. 60/515,322, contains the subject matter regarding the “dataState” variable (see, e.g., para. [0084] of 60/515,322). However, the filing date of this second provisional is October 28, 2003, which is **after** the earliest effective

filing date of the present application, which is September 4, 2003 (see, e.g., page 2 of the Office Action). Therefore, **the subject matter contained in U.S. Provisional Patent Application No. 60/515,322 does not qualify as prior art to the present application**, because only the subject matter contained in U.S. Provisional Patent Application No. 60/469,496 predates the filing date of the present application and the subject matter of 60/469,496 clearly does not include the subject matter relied on for the rejection of independent Claims 13 and 39.

As mentioned, the indicator variable “dataState” in *Connelly* is used to **check on the progress of a feed** rather than to check **the status of an XML data validation operation**. Based on the description in *Connelly*, it is clear that the progress of a feed is relative to whether or not the “feed data is acquired” (para. [0086]). This is exemplified by *Connelly* describing the variable “dataState” as having one of the values “loading”, “available” and “unavailable.” By contrast, providing the status of a feed as “loading”, “available”, or “unavailable” is not equivalent to providing information about **the state of an XML data validation operation**. Hence, even *if* the *Connelly* reference were to qualify as prior art to Claims 13-39 (which is not conceded to herein), this reference clearly does not teach or suggest the subject matter recited in independent Claims 13 and 39.

Dependent Claims 14-38 depend from Claim 13 and, therefore, are patentable over the cited reference of record for at least the same reasons as Claim 13. Furthermore, each of these dependent claims includes at least one other limitation that makes it further patentable over the reference of record. However, due to the fact that *Connelly* does not qualify as valid prior art to the subject application for the subject matter on which it is relied, discussion of these additional differences is unnecessary and is foregone at this time. The rejection of the dependent claims is collectively traversed, and no statements of official notice, overarching allegations of obviousness, or allegations of well-known features that may be present in the Office Action are

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stipulated to or admitted as prior art features, and the right to separately argue such features in the future is not disclaimed. Reconsideration and withdrawal of the rejection of Claims 13-39 under 35 U.S.C. §103(a) is requested.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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